

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

MAXIMILIANO IXTEPAN and INES)	
XALA, Natural Father and Mother of)	
JOAQUIN IXTEPAN, Deceased.)	
)	Cause No. 1:14-cv-00142
Plaintiffs,)	
)	
v.)	
)	JURY TRIAL DEMANDED
BEELMAN TRUCK COMPANY)	
)	
and)	
)	
KENNETH WEAVER)	
)	
Defendants.)	

AMENDED COMPLAINT
WRONGFUL DEATH

COME NOW Plaintiffs Maximiliano Ixtepan and Ines Xala, natural father, natural mother and Class 1 Representatives of Decedent Joaquin Ixtepan pursuant to RSMo. §537.080(1) and §537.090 and for their Wrongful Death claim over and against Defendants Beelman Truck Company and Kenneth Weaver, state and allege as follows:

ALLEGATIONS COMMON TO ALL COUNTS

1. Plaintiffs Maximiliano Ixtepan and Ines Xala are residents of Veracruz, Mexico.
2. Plaintiffs bring this action against Defendants as natural father and mother of Joaquin Ixtepan and Class I Representatives pursuant to RSMo. §537.080(1).
3. Plaintiffs' decedent, Joaquin Ixtepan was a resident of Lakewood, Illinois.
4. Defendant, Beelman Truck Co. (hereinafter referred to as "Beelman") is a corporation with its principle place of business and corporate headquarters located at 1 Racehorse Drive, East St. Louis, St. Clair County, Illinois.

5. Defendant Kenneth Weaver is a resident of Red Bud, Illinois.
6. The incident which gives rise to the instant cause occurred on or about July 25, 2014, at the intersection of Highway 51 and Route H in Perry County, State of Missouri and therefore venue is proper in this Court.
7. Defendant Kenneth Weaver, while in the course and scope of his employment for Defendant Beelman, was operating a tractor and trailer and attempted to make a left turn from eastbound Route H onto northbound Highway 51.
8. Plaintiffs' decedent was a passenger in a vehicle traveling southbound on Highway 51 and collided with the Defendants' tractor trailer as it pulled out into decedent's lane of travel without warning.

COUNT I
BEELMAN TRUCK CO.

COME NOW Plaintiffs Maximiliano Ixtepan and Ines Xala as father and mother and Class 1 representatives pursuant to RSMo. §537.080(1) and for Count I of their Amended Complaint, state and allege as follows:

9. Plaintiffs incorporate by reference as if more fully set out herein the allegations contained in paragraphs 1-8 above as if more fully set forth herein.

10. On or about July 25, 2014, Defendant Beelman, acting through its agent, Kenneth Weaver, operated a tractor trailer at or near the intersection of Highway 51 and Route H in Perry County, MO.

11. At the above mentioned time and place, it was the duty of Defendant Beelman acting through its agent, Kenneth Weaver, to exercise the highest degree of care in the operation of its tractor trailer.

12. At all relevant times, Beelman, by and through its agent Kenneth Weaver, breached that duty of care and was thereby negligent in one or more the following respects, to wit:

- a) It failed to keep a proper lookout;
- b) It failed to yield to decedent passenger Ixtapan's vehicle;
- c) It violated a stop sign;
- d) It made an improper left turn; and,
- e) It operated a tractor trailer with a suspended license.

13. As a direct and proximate result of one or more of the foregoing acts or omissions on the part of Defendant Beelman, acting through its agent, Kenneth Weaver, passenger Ixtapan's vehicle collided with Beelman's tractor trailer causing Ixtapan's death.

14. As a direct and proximate result of the death of Joaquin Ixtapan, Plaintiffs have suffered pecuniary loss and have been damaged in that they have lost their son's financial support, they have incurred medical and funeral expenses and have been permanently deprived of his services, consortium, companionship, comfort, instruction, guidance, society, counsel and support, all to their detriment and damage.

WHEREFORE, Plaintiffs, as father and mother of Joaquin Ixtapan, pray this Court enter judgment against Defendant Beelman in an amount to adequately and sufficiently compensate Plaintiffs for the damages, including pain, suffering and death sustained by Decedent, in addition to those damages contemplated by RSMo. §537.090 which include but are not limited to pecuniary loss, funeral expenses, consortium, companionship, comfort, instruction, guidance, counsel, training and support, all in excess of Twenty-Five Thousand Dollars (\$25,000.00), together with costs herein incurred and for other and further relief that this Court deems just and appropriate.

COUNT II
KENNETH WEAVER

COME NOW Plaintiffs Maximiliano Ixtapan and Ines Xala as Class 1 representatives pursuant to RSMo. §537.080(1) and for Count II of their Amended Complaint, state and allege as follows:

15. Plaintiffs incorporate by reference as if more fully set out herein the allegations contained in paragraphs 1-8 above as if more fully set forth herein.

16. On or about July 25, 2014, Defendant Kenneth Weaver, while within the course and scope of his employment with Beelman, operated a tractor-trailer at or near the intersection of Highway 51 and Route H in Perry County, MO.

17. At the above mentioned time and place, Defendant Kenneth Weaver owed the duty to exercise the highest degree of care in the operation of the tractor-trailer.

18. At all relevant times, Defendant Kenneth Weaver, breached his duty of care and was thereby negligent in one or more the following respects, to wit:

- a) he failed to keep a proper lookout;
- b) he failed to yield to decedent passenger Ixtapan's vehicle;
- c) he violated a stop sign;
- d) he made an improper left turn; and,
- e) he operated a tractor trailer with a suspended license.

19. Defendant Kenneth Weaver, as a direct and proximate result of one or more of the foregoing acts or omissions, collided with passenger Ixtapan's vehicle causing Ixtapan's death.

20. As a direct and proximate result of the death of Joaquin Ixtapan, Plaintiffs have suffered pecuniary loss and have been damaged in that they have lost their son's financial support, they have incurred medical and funeral expenses and have been permanently deprived of his services,

consortium, companionship, comfort, instruction, guidance, society, counsel and support, all to their detriment and damage.

WHEREFORE, Plaintiffs, as father and mother of Joaquin Ixtepan, deceased, pray this Court enter judgment against Defendant Beelman in an amount to adequately and sufficiently compensate Plaintiffs for the damages, including pain, suffering and death sustained by Decedent, in addition to those damages contemplated by RSMo. §537.090 which include but are not limited to pecuniary loss, funeral expenses, consortium, companionship, comfort, instruction, guidance, counsel, training and support, all in excess of Twenty-Five Thousand Dollars (\$25,000.00), together with costs herein incurred and for other and further relief that this Court deems just and appropriate.

COUNT III
PUNITIVE DAMAGES
BEELMAN

COME NOW Plaintiffs Maximiliano Ixtepan and Ines Xala as father and mother and Class 1 Representatives pursuant to RSMo. §537.080(1) and for Count III of their Amended Complaint, state and allege as follows:

21. Plaintiffs incorporate by reference as if more fully set out herein the allegations contained in paragraphs 1-14 above as if more fully set forth herein.

22. Defendant Kenneth Weaver, while in the course and scope of his employment with Defendant Beelman, turned left and pulled his 60 ton tractor trailer onto Highway 51 from Route H in front of decedent passenger Ixtepan's oncoming pick-up and trailer when he knew or had reason to know that doing so was substantially likely to cause physical harm and/or death.

23. Accordingly, Defendant Kenneth Weaver drove his tractor trailer with conscious disregard and reckless indifference for the safety of others, including decedent Ixtepan.

24. Defendant Weaver's acts, while in the course and scope of employment with Defendant Beelman, warrant the imposition of punitive and exemplary damages.

WHEREFORE, Plaintiffs pray this Court award punitive damages for the reasons aforementioned in an amount in excess of Twenty-Five Thousand Dollars (**\$25,000.00**) and for any further such relief deemed just and proper under the circumstances.

COUNT IV
PUNITIVE DAMAGES
KENNETH WEAVER

COME NOW Plaintiffs Maximiliano Ixtepan and Ines Xala as father and mother and Class 1 Representatives pursuant to RSMo. §537.080(1) and for Count IV of their Amended Complaint, state and allege as follows:

25. Plaintiffs incorporate by reference as if more fully set out herein the allegations contained in paragraphs 1-8 and 15-20 above as if more fully set forth herein.

26. Defendant Kenneth Weaver turned left and pulled his 60 ton tractor trailer onto Highway 51 from Route H in front of decedent passenger Ixtepan's oncoming pickup and trailer when he knew or had reason to know that doing so was substantially likely to cause physical harm and/or death.

27. Accordingly, Defendant Kenneth Weaver drove his tractor trailer with conscious disregard and reckless indifference for the safety of others, including decedent Ixtepan.

28. Defendant Weaver's actions warrant the imposition of punitive and exemplary damages.

WHEREFORE, Plaintiffs pray this Court award punitive damages for the reasons aforementioned in an amount in excess of Twenty-Five Thousand Dollars (**\$25,000.00**) and for any further such relief deemed just and proper under the circumstances.

FOX, GOLDBLATT & SINGER, P.C.

/s/Christopher A. Allen

WILLIAM K. HOLLAND #40399

wholland@stlinjurylaw.com

CHRISTOPHER A. ALLEN #45868

callen@stlinjurylaw.com

720 Olive Street – Suite 1901

St. Louis, MO 63101

314/231-4100 (Office)

314/241-5078 (Facsimile)

Attorneys for Plaintiffs